NO. 21313

IN THE

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

THE STATE OF TEXAS,
Petitioner

v.

FEDERAL POWER COMMISSION,
Respondent

REPLY BRIEF FOR PETITIONER, THE STATE OF TEXAS

THE STATE OF TEXAS
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I.

INTRODUCTION

The Petitioner, the State of Texas, has in its Initial Brief previously filed herein stated its position in opposition to the Commission's Opinion No. 495 and accompanying orders, together with the specific points and arguments in connection therewith, upon which it bases its opposition. This Petitioner firmly believes that such points and arguments have withstood the attacks of Respondent's and Respondent's Intervenors' arguments and therefore would continue to urge all of said points and arguments, as submitted in its Initial Brief.

The State of Texas incorporates by reference herein the statement of position found in its Initial Brief without change thereof.

The arguments made by the Commission and its supporting Intervenors were anticipated by and answered in the Initial Brief of the State of Texas. In reply to such parties, this Petitioner will therefore limit this brief to emphasis of the following matters.

II.

SUPPLEMENTAL ARGUMENTS

A. The record on its face evidences that the incremental price of gas produced in Texas at the California border (Topock) is lower than even the original incremental price of PGT's proposed imported gas at the California border.

The Initial Brief of the State of Texas on page 21 refers to the testimony of PGT's own witness that the price of "Texas" gas at the California border (Topock) is approximately 22¢ per Mcf, a lower price than the original incremental price of the imported gas proposed by PGT herein.

PGT, accompanied by the Commission staff and their several supporting Intervenors, have undertaken to explain away such pertinent part of the record by stating that such witness (Mr. Frank) was at such particular time using the term, "incremental cost," "in a different context than used elsewhere in the proceedings" (PGT brief, page 16), or that said witness "was not discussing the incremental cost of a new supply" (Commission brief, page 15), or that the witness meant to say that, since El Paso did present testimony in the *Transwestern Pipeline Company case*[1] that its

[1]Transwestern Pipeline Company, et al., Opinion No. 500, — FPC— (1966) issued July 26, 1966.

incremental cost of delivering an additional 575,000 Mcfd—the 250,000 Mcfd basic application plus an additional 325,000 Mcfd—was 22¢ per Mcf, "El Paso's overall total additional cost for delivery of these added volumes is 22¢ per Mcf" (Southern California Gas Company, et al, brief, page 14). Southern California Gas Company, et al, even have undertaken to arrive at an incremental cost to PGT of "Texas" gas of 27.47¢ per Mcf through a process which might be called computations assumed "arguendo" (Southern California Gas Company, et al, brief, page 15).

Notwithstanding the foregoing references and arguments in connection therewith, the fact remains and the record clearly reflects that Mr. Frank, witness for PGT, stated that "22¢ is approximately the border price at the California border" when discussing the incremental price of gas produced in Texas (R: 1219-1222).

In the Initial Brief of the State of Texas, references to PGT witness Frank's testimony are sufficiently conclusive so as not to risk any misunderstanding by taking such statements out of context. The State of Texas does not know whether PGT witness Frank meant to say something else or failed to fully enlarge on what he had to say; however, this Petitioner does know what he in fact did say and submits that this case should be decided on what the record reflects and not on what parties on any one side of the controversy herein suggest the record should have reflected.

Moreover, El Paso's witness Travis Petty, Assistant Comptroller of El Paso Natural Gas Company, in hearings before the Commission on October 7 through 9,

1964,[2] while testifying to the incremental cost of gas to be delivered by El Paso to the California border during the years 1968 through 1970, estimated such costs for the year 1968 to be 20.57¢ per Mcf for delivery of 250,000 Mcf per day and 22.66¢ per Mcf for delivery of 575,000 Mcf per day.[3]

Such estimates were based on firm gas rather than interruptables.

Such estimates are a part of the record in a prior hearing before the Commission.

If the Commission may in its expertise as Commission Staff implies (Commission brief, page 13-14), lift facts from the record of one hearing for the purpose of applying them to another hearing, then surely the foregoing estimates have been available for Commission scrutiny and edification for a considerable time. As reflected above, however, the estimates, of course, also appear as an exhibit to a filing in this proceeding.

The intention of the State of Texas was to examine the proposed witness, Barry Hunsaker, whom this Petitioner was not permitted to subpoena, in regard to price, as well as all other pertinent matters regarding a more desirable alternative source of natural gas, as to which, according to this Petitioner's understanding, such witness is expertly qualified.

Since the State of Texas was precluded from examining the proposed witness Hunsaker, as more fully

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[2]Gulf Pacific Case Docket No. CP64-76, before the Federal Power Commission, Exhibit 125, Schedule No. 6, Sheet 1 of 1.

[3]Appendix to Initial Brief of State of Texas, Page 73, *El Paso Estimates of Cost of Gas Delivered to the California Border.*

discussed hereinbelow, the price of proposed "Texas" gas at the California border is noticeably disputed in this record, and a thorough comparison of the price of gas proposed for import by PGT and the price of gas proposed as a more desirable alternative by the State of Texas is virtually impossible.

The State of Texas submits that such a price comparison is relevent, is vital to a knowledgeable opinion consistent with the public interest, and will fully substantiate the price advantage to California consumers of this Petitioner's alternative proposal, the consideration of which has been consistently refused throughout the course of these proceedings within the Federal Power Commission.

The record is therefore lacking regarding material evidence of an alternate supply of gas at a possibly lower price than the price of Canadian gas proposed by PGT, and the Commission opinion was necessarily reached in disregard of such evidence.

Commissions Staff also appears to object to the Texas position as follows:

> ". . . petitioners (Texas and TIPRO) also suggest that the domestic supplies would provide a better alternative because the producers' sales in Canada are not subject to F.P.C. regulation and particularly because many of the sales contracts permitted unlimited price renegotiations or redeterminations in 1968 and five year intervals thereafter.
>
> "It is stated that, by contrast, gas sold in Texas is subject to Commission regulation 'in such a manner that its price is firm and definite in each field or area' (Texas Br. pp. 20-21). While the existence of indefinite price-changing provisions

in some of the Canadian contracts undoubted leaves an element of uncertainty as to future prices, it is also not possible to predict with certainty the prices that may be charged for Texas gas over the next twenty years." (Commission brief, page 21).

For the purposes of clarifying the foregoing matter and this Petitioner's position, we add that the Commission's regulations do permit, as Commission Staff indicates, periodic price increases under escalation provisions of contracts, but we emphasize that such increases can never go above the ceiling prices approved by the Commission. Therefore, under producer contracts covering domestic gas, a contrasting firm and reasonably known future price exists directly because of Commission regulations.

A tremendous difference exists regarding future prices under contracts for foreign gas. Under such contracts, no regulatory protection exists, and escalation clauses therein unquestionably introduce the element of uncertainty of future prices and therefore of future costs to consumers depending on foreign natural gas supplies covered by such unregulated contracts.

B. Although no competitive application was filed in this matter, the Commission should have nevertheless compared the PGT proposal with the desirability of the gas supply proposal of the State of Texas and, in that connection, should have admitted into the record relevant and material evidence of a presently available, more economic, alternate supply of gas, which the State of Texas undertook to propose for consideration.

A presently available, more economic and desirable,

alternate supply of natural gas produced in Texas was ignored by the Commission in reaching its opinion in this matter because the record before the Commission remained incomplete. The record remained incomplete because both the Presiding Examiner and the Federal Power Commission refused to permit the presentation of such evidence by this State.

To a large extent, the opposing parties to this case argue what the record might have shown or might have failed to show if the Hunsaker testimony had been admitted and if he had been subpoenaed for direct and cross-examination. Unfortunately, because of the erroneous refusal of the Commission to admit the Hunsaker testimony and to subpoena the proposed witness Hunsaker, as requested by the State of Texas, such argument of the parties hereto can be no more than surmise.

Moreover, the Commission concluded, after upholding the Presiding Examiner's exclusion of evidence of the alternate supply of gas proposed by the State of Texas, that the record does not show the existence of an alternate method of gas supply for consideration.

Therefore, first the Commission refused to let this Petitioner make such showing; then the Commission concluded there was no showing. In such a manner, these proceedings before the Commission were summarily brought to a close.

Southern California Gas Company, et al, concluded in their brief concerning the *City of Pittsburg Case*[4]

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[4]City of Pittsburg v. FPC, 237 F.2d 471 (Cir.Ct.App., D.C., 1956).

and the *Scenic Hudson Case*[5] that ". . . the Commission must scrutinize reasonable and feasible alternatives," (Southern California Gas Company, et al, brief, page 11), with which conclusion the State of Texas completely agrees.

No party to this proceeding can argue conclusively concerning what Barry Hunsacker might have testified to under direct and cross-examination because the parties hereto were denied the benefit of his testimony by both the Presiding Examiner and the Commission. The State of Texas submits that, by the inclusion of his testimony, a reasonable and feasible alternative could have been developed and should have been considered by the Commission, as the law requires under the aforementioned and other pertinent cases cited in the Initial Brief of this State.

PGT, undertaking in its brief to summarize the meaning of the *City of Pittsburg* case,[6] stated that "the Commission must not consider each application out of context with the known factors concerning the public interest in the situation before it" (PGT brief, page 23). It would probably be more accurate to say that the case stands for the proposition that the Commission must not consider each application out of context with the "knowable" factors concerning the public interest in the situation before it. And, that has been the consistent position of this Petitioner throughout these proceedings, to-wit: To make available to the Commission for its consideration a possibly more de-

[5]Scenic Hudson Preservation Conference, et al., v. FPC, 354 F.2d 605 (Cir.Ct.App., Second Cir., 1965).

[6]City of Pittsburg v. FPC (supra).

sirable alternate supply of natural gas available for Northern California.

PGT states that El Paso did not have a "proposed project in competition with that proposed by PGT," although it did have an "application pending for a project, on which hearings have been concluded, to serve another customer at a specified price" (PGT brief, page 23).

Now, we might note, that El Paso has another application pending before the FPC for a project to supply gas to California, a portion of which is actually proposed for Northern California, the very area which is the subject of this proceeding.[7]

However, notwithstanding the aforesaid statements in the PGT brief, consideration by the Commission of a more desirable means of supplying gas than the one applied for is not limited to those for which competing applications have been filed or actual projects have been proposed. To the contrary, the Commission has been amply directed by the courts to consider the existence of a more desirable alternative in order to determine whether a particular proposal does in fact serve the public convenience and necessity.[8] "That the Commission has no authority to command the alternative does not mean that it cannot reject the (original) proposal." *City of Pittsburg v. FPC* (supra).

PGT further states that "the evidence offered by Texas did not show an alternative project, i.e., it left

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[7]El Paso Natural Gas Company, Docket No. CP67-217, before the Federal Power Commission.

[8]Superior Oil Company v. FPC, 334 F.2d 1002 (Cir.Ct. App., Third Cir., 7-30-64).

out the important factor of *price.*" As mentioned hereinabove, Texas intended from the inception of these proceedings to include the "important factor of *price,*" together with all other pertinent matters, in its alternative proposal through examination of its proposed witness. Not only was the prepared testimony proposed by this Petitioner excluded by the Commission from the record but also the right of examination of the witness was denied. The State of Texas therefore was not even given the opportunity to be heard and present evidence, as procedural due process requires under established law. *Superior Oil Company v. FPC* (supra).

Since the disposal of this proceeding by the FPC, the Commission has apparently thought it necessary to give explicit consideration to all "alternate sources" of gas for any one project, as evidenced by a letter from the Commission Secretary directed to applicant in a subsequent proceeding filed by PGT seeking authority to import additional volumes of Canadian gas, wherein the Commission directly requested the following information:

> "Lists of all alternate sources, together with studies and explanations associated therewith, which you have considered before deciding to import additional gas from Canada" (Appendix, page 1).

Such a letter was never mailed in the proceeding here under consideration.

Furthermore, in order to ascertain the position and *present* thinking of the Commission itself regarding consideration of alternate supplies of gas we quote excerpts from the Presiding Examiner's statements during the course of a proceeding, which is, at this writing, still pending before the Commission, and

which involve the question of whether the record should be reopened for the purpose of receiving evidence of a project containing the essential elements of an alternative described by the Commission Staff therein for the first time in the Staff brief, to-wit:

> "Now, I do not understand, . . ., that the Commission or the examiner can brush off a proposal in a competitive proceeding in which, presumably, it is being asked to determine what is best in the public interest, on the ground of a deficiency in the evidentiary presentation.
>
> "Mind you, as you very well observe, this is not presented in terms of asking that this proposal be certificated. This is being presented in terms of the argument that the proposals which the Commission has been asked to certificate do not represent the best proposal in the public interest."
>
> "I cannot ignore the fact that assuming in a competitive license or certificate proceeding the applicant proposes A and B, and it is determined that proposal C is the best proposal, the fact that it is not presented by the applicant does not relieve the Commission of its responsibility for denying A and B because the best public-interest proposal has not been presented."
>
> "The cases of Scenic Hudson and many other cases in which the courts have articulated a remand on the basis of the fact that the license proposals—that the record did not go into other proposals which were presented, we are all aware of this."
>
> "I recall decisions in which no one was presenting —was seeking an application for the proposal which the Commission or the courts later said should have been considered." In the matter of Great Lakes Gas Transmission Company, et al.,

Docket No. CP66-110, et al., before the Federal Power Commission, (R: 3156, 3174, 3175 and 3176).

The Presiding Examiner in his statements set forth hereinabove was correct; and the State of Texas submits that he correctly reopened the record to develop evidence of the alternative proposal. The Commission has been admonished to "see to it that the record is complete;" and the Commission's duty has been recognized to affirmatively "inquire into and consider all relevant facts."[9] These admonitions are somewhat more pointed and meaningful than the interpretation of the *Scenic Hudson* case by PGT that it was based upon "the same common sense broad principal that the Commission should not ignore important factors of the public interest of which it was aware." (PGT brief, page 24)

PGT also cites a 1957 *Michigan Consolidated Gas Company* case[10] for support of its position arguing, in connection therewith, that the Commission properly rejected an alternative proposal (PGT brief, page 25). Again, the State of Texas reiterates that it is not here concerned with rejection or approval of a proposal; rather this State is concerned with and urges *consideration* of an alternate proposal by the Commission for the purpose of the Commission's reaching an educated and reliable decision of whether to approve or reject the application, which has been placed before it in this proceeding by PGT. We again emphasize a

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[9]Scenic Hudson Preservation Conference, et al., v. FPC (supra).

[10]Michigan Consolidated Gas Company v. FPC, 246 F.2d 904 (Cir.Ct.App., Third Cir., 1957, cert. denied, 355 U.S. 894, 1957).

portion of the ruling in the 1960 *Michigan Consolidated Company* case as follows:

> ". . . since the Commission is charged with the duty of protecting the ultimate consumer from 'exploitation at the hands of natural gas companies' (citing Federal Power Commission v. Hope Natural Gas Company, 320 U.S. 591, 64 S.Ct. 281, 88 L.ed. 333, 1944), it cannot refuse to *consider* a proposal which appears, on its face at least, consistent with that duty." Michigan Consolidated Gas Company v. Federal Power Commission, 283 F.2d 204 (Cir.Ct.App., D.C., 4-29-60, reh. den. 7-11-60, cert. den. 364 U.S. 913, 1960).

In summary, although the present record indicates that the alternate proposal advocated for consideration by the State of Texas might be both more economic and more desirable, the State of Texas was denied the opportunity to make a full showing in the record of such alternative and was further denied the right to subpoena a witness for that purpose, who was never under this State's control, and therefore consideration of such alternate proposal was totally ignored by the Commission in reaching its decision. As a result, all that the parties to this matter are presently able to do is to argue what the record might or might not have shown with reference to the alternate proposals of the State of Texas omitted from the record.

C. An "offer of proof," to which the State of Texas was relegated in this proceeding before the FPC as a means of presenting its alternate proposal, is wholly inadequate and a virtually meaningless procedure that should not be tolerated by a court of law.

In this Petitioner's Initial Brief, the impossibility of the Commission to fully consider the significance of evidence under a mere "offer of proof" is argued because of an "offer of proof's" limited nature and incomplete coverage of what might have been relevant and material evidence. We repeat that no meaningful evidence is likely to be "tendered" through the means of an "offer of proof" because of a total lack of availability of cross-examination through such procedure (Initial Brief of the State of Texas, pages 6-7).

To such statements in this Petitioner's Initial Brief, the Commission staff replied as follows:

> "The Texas argument that the Commission's consideration of evidence as submitted through offers of proof is insufficient to protect the party making the offer because there is no cross-examination is a startling theory. Plainly there is no valid objection if the Commission accepts proffered evidence at face value." (Commission brief, page 12).

In answer to the foregoing "Commission position" taken by staff and not at all for the purpose of startling staff further, we merely quote from the Presiding Examiner's remarks in the aforementioned proceeding presently pending before the Commission, wherein it appears that the Presiding Examiner is equally concerned with the results of a denial of the opportunity to cross-examine, to wit:

> "As I read the Commission's order, it re-opened the record, at least to the limited extent of directing that the documents that were filed by Great Lakes subsequent to the close of the record be made a part of the record. Now, while these documents speak for themselves, they cannot be cross-examined, and their implications and significance

in terms of the public interest and the specifics as they relate to economic feasibility, it seems to me, can only be developed on cross-examination.

"Moreover, the other parties to this proceeding are entitled to answer or rebutt the conclusions of the Great Lakes associates and their interpretation of the significance of these documents insofar as they affect the merits of this proceeding." In the matter of Great Lakes Gas Transmission Company, et al., Docket Nos. CP66-110, et al., before the Federal Power Commission, R: 3150.

Commission staff, in arguing that "offers of proof" are alone sufficient (without the availability of cross-examination and redirect) to protect the party making the "offer of proof," relies on a *Natural Gas Pipe Line Company Case*[11] stating as follows:

"Plainly there is no valid objection if the Commission accepts proffered evidence at face value." (Commission brief, page 12).

The Court, however, in the aforementioned case did not have before it an "offer of proof" for consideration; it had a question of evidence, as the following portion of the opinion reflects:

"All the evidence tendered was received and considered by the Commission, and before the interim order was entered counsel for the companies stated to the Commission that they had concluded the direct testimony in support of their case. So far as the order is supported by the evidence the companies cannot complain that they were denied a full hearing because they had not been able to examine on redirect their own witnesses who had not been cross-examined, or because they had no

[11]Natural Gas Pipe Line Co., et al., v. FPC, 315 U.S. 575, 62 Sup.Ct. 736 (1942).

> opportunity to cross-examine or rebut witnesses who were not offered by the Commission. The right to a full hearing before any tribunal does not include the right to challenge or rely on evidence not offered or considered." Natural Gas Pipe Line Co., et al. v. FPC (supra, page 584).

The State of Texas submits that the right to a full hearing before any tribunal *does* include the right to present relevant and material evidence and of an opportunity to cross-examine witnesses offered by a party thereto. We submit therefore that the foregoing case is not in point.

In addition to the necessity of full development of relevent and material evidence through making a witness available for cross-examination concerning proffered testimony, which, it seems to this Petitioner, should not even be disputed, the State of Texas was denied the right to have its proposed witness, Barry Hunsaker, subpoenaed to testify.

The witness Hunsaker was not and has never been under control of the State of Texas; the only manner by which this Petitioner could have questioned such witness was by use of the subpoena process, which was from the first denied this Petitioner; and any "offer of proof" or similar procedure under any name cannot be considered as even a poor substitute for subpoenaing a witness, as nothing could be offered thereunder and there could be no proof.

The "offer of proof," as used by the Commission in this matter, is a roughshod procedure, which lends itself to an unjust result.

The Federal Administrative Procedure Act is clear

in its provision for the right of a party to the use of the subpoena process, to-wit:

> "Agency subpoenas authorized by law shall be issued to any party upon request and, as may be required by rules of procedure, upon a statement or showing of general relevance and reasonable scope of the evidence sought." 5 U.S.C.A., Sec. 1005(c).

For the foregoing reasons, the State of Texas submits that such procedure as an "offer of proof" under the Commission's Rules of Practice and Procedure denies to a party forced to use such procedure that procedural due process which by law and right any party should have before an administrative body such as the Federal Power Commission.

In this particular case, the "offers of proof" tendered by the State of Texas do not and cannot reflect any relevant and material evidence developed by examination of the witness Hunsaker. The only way to develop such evidence is to examine such witness. An "offer of proof" is no substitute. The record in this matter is therefore incomplete to the extent of the development of evidence through the examination of Barry Hunsaker, and this Petitioner has therefore been denied procedural due process through the refusal of the Commission to permit this State to examine Barry Hunsaker as a witness.

D. The record remains largely silent regarding a sufficiency of natural gas, upon which PGT would depend to meet its obligations under its application in this matter before the Commission.

Commission Staff has incorrectly stated this petitioner's position in the following manner:

> "We now take up Texas' specific objection. First it argues (Texas Br. p. 9) that the record shows physical insufficiency of natural gas because not all the wells ultimately required to *deliver* the commited reserves have been drilled. Texas argues that because additional wells will be needed in the future to achieve maximum deliverability from known reserves, the supply adequacy has not been shown. The need for such additional developmental wells to carry out long-term commitments exists in almost every case where large, new supplies are being attached. Texas' suggestion that the Commission should not issue any gas sales certificate until the producers have drilled every well that may eventually be needed is, we suggest, an astounding one and without any support." (Commission brief, page 26)

This Petitioner's position with reference to the supply upon which PGT would depend is set out in its Initial Brief on pages 9-13. Therein, we point out that according to the record approximately the same number of wells as are presently in existence will have to be drilled in some of the Canadian fields in order to produce the deliverability required to secure sufficient gas for the proposed expansion by PGT over the next 15 to 20 years (R. 198-200) and that some 153 additional wells will have to be drilled during such time (R. 206).

The arguments of this State do not, as Commission Staff states, embody the suggestion that "the Commission should not issue any gas sales certificate until the producers have drilled every well that may eventually be needed;" however, the State of Texas does suggest that the Commission should require, as indeed it does require with reference to domestic supply, evidence of a somewhat more definite and unquestionable nature

than the record herein reflects when only half of the necessary producing wells are presently in existence and where some 153 additional producing wells must be drilled in order to realize a sufficient supply to meet the requirements developed during Commission hearings.

The record here contains no real proof of reserves upon which PGT would depend; the record merely contains conclusions of PGT witnesses that the reserves are adequate.

The State of Texas submits that the record should be completed with evidence of adequacy of supply and that such evidence is, contrary to the view of the Commission in this proceeding (R: 5259), relevant and material.

III.

CONCLUSION

Wherefore, for the above reasons and all other reasons reflected in the Initial Brief of Petitioner previously filed herein, the State of Texas respectfully submits that this Honorable Court should set aside and hold for naught Commission Opinion No. 495 and accompanying orders and remand this matter to the Commission with appropriate instructions requiring admission of the aforementioned evidence proposed by the State of Texas and excluded by the Commission into the record for consideration and requiring the issuance of a subpoena duces tecum directed to Barry Hunsaker, as urged by the State of Texas, and/or in all things

deny the application of PGT herein as being inconsistent with and detrimental to the public interest.

Respectfully submitted,

THE STATE OF TEXAS
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First Assistant Attorney General

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Staff Legal Assistant

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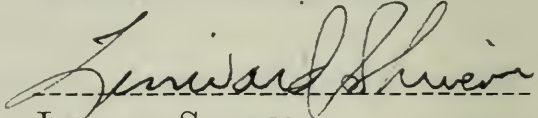
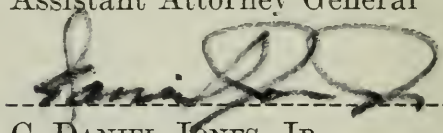


LINWARD SHIVERS
Assistant Attorney General



C. DANIEL JONES, JR.
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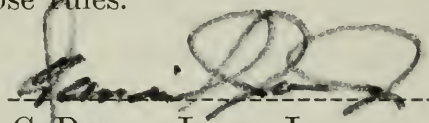
CERTIFICATION

I certify that, in connection with the preparation of this brief, I have examined Rules 18 and 19 of the United States Court of Appeals for the Ninth Circuit, and that, in my opinion, the foregoing brief is in full compliance with those rules.



C. DANIEL JONES, JR.

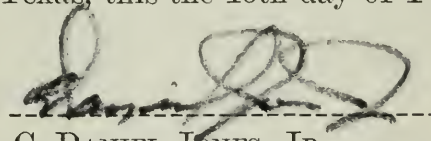
CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing upon the following party:

Howard E. Wahrenbrock, Solicitor
441 G St. N.W.
Washington, D. C. 20426

and all other parties to this proceeding.

Dated at Austin, Texas, this the 16th day of February, 1967.



C. DANIEL JONES, JR.

APPENDIX

Copy of letter dated January 18, 1967 from Secretary, Federal Power Commission, to Pacific Gas Transmission Company in matter of Pacific Gas Transmission Company, Docket No. CP67-187, Before the Federal Power Commission.

FEDERAL POWER COMMISSION
Washington, D.C. 20426

In Reply Refer To:
BNG-PL/SW
Pacific Gas Transmission
Company
Docket No. CP67-187

Jan. 18, 1967

Pacific Gas Transmission Company
245 Market Street
San Francisco, California
94106

Gentlemen:

Your application in the subject docket to expand your pipeline system and to import additional gas from Canada should be supplemented by the submittal of the following information:

(1) List of all alternate sources, together with studies and explanations associated therewith, which you have considered before deciding to import additional gas from Canada.

(2) Breakdown of the increase in proven gas reserves between November 1, 1964 and November 1, 1966 by type of contract. This should be shown for each category as in Exhibit H (2), Page 1.

(3) Explanation as to the source of peaking gas shown in the graph on Exhibit I (2) (b), Page 6.

(4) Workpapers in support of Exhibit I.

The requested information should be submitted within 30 days from the date of this letter; otherwise, the

application would be subject to rejection under the provisions of Section 157.8 of the Regulations under the Natural Gas Act.

Very truly yours,

Secretary